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Jonathan Banks  
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202 463 4182  
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October 30, 2001

VIA ELECTRONIC FILING

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

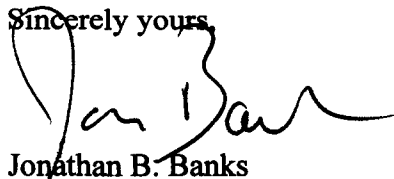
Re: EX PARTE – CC Docket No. 01-277

Dear Ms. Salas:

We supplied the attached written material to the Department of Justice concerning BellSouth's Daily Usage File Rates at the Department's request.

I am filing notice of this ex parte in the docket identified above, as required by Commission rules, and request that you associate this notice with the record of that proceeding. If you have any questions concerning this, please call me at (202) 463-4182.

Sincerely yours,



Jonathan B. Banks

Attachments

cc: Jessica Rosenworcel  
Susan Pié  
James Davis-Smith (Department of Justice)  
Cynthia Lewis (Department of Justice)

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October 30, 2001

VIA FAX – (202) 514-6381

Katherine Brown, Esq.  
U.S. Department of Justice  
Antitrust Division  
Telecommunications Task Force  
1401 H Street, N.W.  
Suite 8000  
Washington, D.C. 20005

Dear Katherine:

Per your request, I have attached a summary of BellSouth's Daily Usage File (DUF) rates currently in effect in Georgia and Louisiana. These rates are taken from BellSouth's SGATs in those states, which are part of the record filed by BellSouth in this proceeding.

Also related to this issue, I have attached a copy of an *ex parte* filed today by AT&T with the Federal Communications Commission in this proceeding. As stated in this *ex parte*, the FCC staff has requested that AT&T provide the supporting information used by AT&T's affiant Michael Lieberman in calculating the comparison of DUF charges at Exhibit 5 of his affidavit. In that exhibit, Mr. Lieberman purports to create an average per line monthly DUF charge for BellSouth in both Georgia and Louisiana, and compare it to similar figures for states that previously have received 271 approval. As you are no doubt aware, AT&T's comments contain absolutely no explanation for how Mr. Lieberman arrived at his assertions concerning BellSouth's Daily Usage File rates or, for that matter, those of other Bell Operating Companies. Since Bellsouth has three types of DUFs with different rates and each is assessed on a per message basis, Mr. Lieberman necessarily must have made several assumptions in order to create a single average per-line, per-month charge. Nonetheless, AT&T chose not to provide in its filing any explanation of what assumptions Mr. Lieberman used, thereby making it impossible for BellSouth, DOJ or the FCC to critique his assertions.<sup>1</sup>

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<sup>1</sup> Of course, as you have noted, Mr. Lieberman's analysis is put in question by the comments of another opposing party, WorldCom, which also attempted to create a purported monthly per-line DUF charge. Like AT&T, WorldCom certainly has the incentive to utilize assumptions that make this monthly

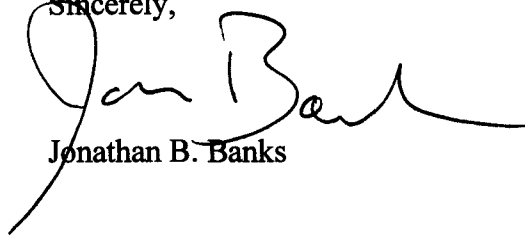
Katherine Brown, Esq.  
October 30, 2001  
Page Two

While AT&T's failure to provide support for these assertions in its original filing should by itself severely limit any reliance on such claims by either DOJ or the FCC, AT&T's admission in the attached *ex parte* raises serious questions of fundamental fairness. In the *ex parte*, AT&T agrees to respond to the FCC staff's request for supporting information "in early November." At a minimum, this means that such information is not going to be available in time for DOJ staff adequately to review prior to filing its comments with the FCC. Perhaps even worse, this "commitment" raises the possibility that AT&T will file some purported support in time for DOJ staff to review cursorily but with absolutely no time for BellSouth to respond. Indeed, it is hard to fathom a legitimate explanation as to why AT&T does not have readily available information to support an analysis provided to the FCC more than two weeks ago.

In light of this admission by AT&T that it is not yet prepared to share its analysis supporting its allegations concerning BellSouth's DUF rates, we must question how in preparing their comments in this proceeding the DoJ staff could possibly rely upon AT&T's unsupported assertions on this issue. Given the timing of the Department's filing with the FCC, it simply would be fundamentally unfair for the staff to rely upon these claims when AT&T has declined to support them in a timely manner.

Consistent with the FCC's rules, we are filing a copy of this letter and attachments in the record of this proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Banks", with a long horizontal flourish extending to the right.

Jonathan B. Banks

Attachments  
cc: Cynthia Lewis (via Fax)

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charge seem as high as possible. Nonetheless, MCI's analysis results in a monthly charge 63% lower than AT&T's assertion. WorldCom comments at 60.

<u>Cost Element</u>	<u>Description</u>		
<b>L.0</b>	<b>ACCESS DAILY USAGE FILE (ADUF)</b>	<b>Current Georgia SGAT</b>	<b>Current Louisiana SGAT</b>
L.1	ACCESS DAILY USAGE FILE (ADUF)		
L.1.1	ADUF, Message Processing, per message	\$0.0079506	\$0.0079830
	ADUF, Message Processing, per port		
L.1.3	ADUF, Data Transmission (CONNECT:DIRECT), per message	\$0.0000434	\$0.0001268
<b>M.0</b>	<b>DAILY USAGE FILES</b>		
M.1	ENHANCED OPTIONAL DAILY USAGE FILE		
M.1.1	Enhanced Optional Daily usage File: Message Processing, Per Message	\$0.0034555	\$0.2500150
M.2	OPTIONAL DAILY USAGE FILE		
M.2.1	Optional Daily Usage File: Recording, per Message	\$0.0000090	\$0.0000117
M.2.2	Optional Daily Usage File: Message Processing, Per Message	\$0.0046462	\$0.004641
M.2.3	Optional Daily Usage File: Message Processing, Per Magnetic Tape Provisioned	\$28.85	\$48.45
M.2.4	Optional Daily Usage File: Data Transmission (CONNECT:DIRECT), Per Message	\$0.0000434	\$0.000106



**Joan Marsh**  
Director  
Federal Government Affairs

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1120 20th Street NW  
Washington DC 20036  
202 457 3120  
FAX 202 457 3110

October 30, 2001

Via Electronic Filing

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWB-204  
Washington, DC 20554

Re: Notice of oral ex parte communication, Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana, CC Docket No. 01-277

Dear Ms. Salas:

On October 30, 2001 Christopher T. Shenk and Michael Lieberman, representing AT&T Corp. ("AT&T"), participated in a conference call with Deena Shetler of the FCC's Common Carrier Bureau. The purpose of the call was to discuss Ms. Shetler's request for additional information about how the average monthly per line DUF rates contained in AT&T's Comments were computed, including assumptions regarding usage rates, the structure of BellSouth's DUF rates, and whether competitive local exchange carriers could control the number of DUF records for which they are billed. AT&T has agreed to provide the Commission with additional written information relating to these issues in a ex parte letter to be filed in early November.

Consistent with Commission rules, I am filing one electronic copy of this notice and request that you place it in the record of the proceeding.

Sincerely,

A handwritten signature in black ink, appearing to be "JM" followed by a horizontal line.

Joan Marsh